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May 31, 2019

By ECF

Hon. Jesse M. Furman

United States District Court for the Southern District of New York

Thurgood Marshall United States Courthouse

40 Foley Square New York, NY 10007

Re: Denson v. Donald J. Trump for President, Inc.
Case No. 18-cv-2690

Dear Judge Furman:

I and co-counsel David K. Bowles represent plaintiff Jessica Denson (“Ms. Denson”) in the referenced action. We write at this time to advise the Court of a factual development that occurred on May 29, 2019, after submission of Ms. Denson’s motion to supplement the record on the parties’ respective motions to confirm and vacate the arbitration Awards of L. Paul Kehoe. Docket Nos. 29, 44.

On May 29, 2019, the Campaign emailed the American Arbitration Association (“AAA”) to advise it that, pursuant to Section 8(b) of the non-disparagement and non-disclosure agreement (“NDA”) signed by Ms. Denson, it is refusing to arbitrate Ms. Denson’s claims in *Denson v. Donald J. Trump for President, Inc.*, AAA Case No. 01-19-0000-5505. The matter the Campaign refuses to arbitrate is the class action arbitration Ms. Denson brought to invalidate the NDA for herself and all comparably situated Campaign workers (the “Class Action Arbitration”). A copy of the Campaign’s email to the AAA is enclosed.

The Class Action Arbitration is the arbitration Ms. Denson brought to comply with this Court’s August 30, 2018 Order granting the Campaign’s motion to compel arbitration of Ms. Denson’s claims concerning the NDA’s invalidity. *See* Order, Docket No. 23, and Docket No. 42. This remarkable action – the Campaign’s refusal to arbitrate the very subject matter over which it moved to compel arbitration and obtained dismissal of this action in this Court – illustrates the Campaign’s desperation to avoid any examination of the legality of the NDA on the merits.

Indeed, the public policy arguments Ms. Denson raised on her motion to supplement, which the Campaign attempted to preempt as “additional,” Docket No. 47, are arguments she sought to arbitrate in the Class Action Arbitration and that the Campaign sought to bury by refusing to consent to the Class Action Arbitration. The Campaign cannot have it both ways – an arbitrator, or a court, or both need to address the legality of the NDA on the merits. Notably, the

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Campaign did not inform this Court of its action at the AAA in the letter it submitted to this Court some hours later. *Id.*

This development further supports Ms. Denson's request that this Court consider the illegality of the NDA on her public policy challenge to the Awards – in which Arbitrator Kehoe raised the issue of the NDA's legality *sua sponte* and without authorization, took no briefing on the subject and decided the issue in a single cursory sentence. The parties, and the nation, deserve more.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Maury B. Josephson', with a long horizontal flourish extending to the right.

Maury B. Josephson

Enclosure

cc: Lawrence S. Rosen, Esq.
Patrick T. McPartland, Esq.
David K. Bowles, Esq.
(all via ECF and email)

From: Patrick Mcpartland <pmcpartland@lhr gb.com>
Sent: Wednesday, May 29, 2019 1:45 PM
To: jonathanweed@adr.org
Cc: Lawrence Rosen; 'David Bowles'; Maury Josephson
Subject: RE: Donald J. Trump for President, Inc./Jessica Denson, AAA Case No. 01-19-0000-5505 (the "Second Arbitration")
Attachments: Jessica Denson NDA - Fully Executed.pdf

Good afternoon Mr. Weed,

In accordance with paragraph 8B of the parties' arbitration agreement (courtesy copy attached), we write to advise that the Campaign does **not** consent to the AAA's jurisdiction over the Second Arbitration.

Very truly yours,

Patrick McPartland, Esq.



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From: Patrick Mcpartland
Sent: Wednesday, May 22, 2019 3:07 PM
To: jonathanweed@adr.org
Cc: Lawrence Rosen <lrosen@lhr gb.com>; 'David Bowles' <david@lawd kb.com>; Maury Josephson <mbjlaw@verizon.net>
Subject: Donald J. Trump for President, Inc./Jessica Denson, AAA Case No. 01-19-0000-5505 (the "Second Arbitration")

Good afternoon Mr. Weed,

We write in furtherance of our March 18, 2019 correspondence (courtesy copy attached) wherein the Campaign expressly reserved its contractual right to not consent to the AAA's jurisdiction over the

Second Arbitration. This right, which is in the "sole discretion" of the Campaign, is set forth in paragraph 8B of the subject Agreement (courtesy copy attached).

We are aware of Judge Kehoe's recent decision and order concerning the Campaign's application to dismiss the Second Arbitration. We intend to discuss this with our client and expect to be able to notify the AAA by next Wednesday or Thursday whether the Campaign will or will not consent to the AAA's jurisdiction over the Second Arbitration.

Thank you,

Patrick McPartland, Esq.



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